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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,063	02/04/2002	Kenji Takahashi	1232-4814	2514
27123	7590	10/20/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			JERABEK, KELLY L	
			ART UNIT	PAPER NUMBER
			2612	
DATE MAILED: 10/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,063

Applicant(s)

TAKAHASHI, KENJI

Examiner

Kelly L. Jerabek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-12, and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/3/2005 have been fully considered but they are not persuasive.

Response to Remarks:

Applicant's arguments regarding claims 1 and 10 (Amendment page 11) state that the Saeki reference does not disclose a second exposure control mode in which an exposure value for photographing is determined by performing exposure control by using a **plurality of preset exposure values**. The Examiner respectfully disagrees. Saeki discloses in figure 3 an image pickup apparatus including a second exposure control mode (mode corresponding to (a2-a1) being smaller than threshold value (z)) in which an exposure value is set to a prescribed value (r), which is set on the basis of a threshold value (z) (col. 4, lines 20-30). The Examiner is reading this feature as determining an exposure value (Yr) by performing exposure control (setting Yr) by using a plurality of preset exposure values (prescribed value r). **The threshold value (z) is a value determined on the basis of the configuration of an image pickup apparatus (e.g., the diameter of the lens or the number of pixels of an image pickup element) (col. 4, lines 27-30).** Thus, it can be seen that depending on the configuration of

the image pickup apparatus (which is preset and fixed for each image pickup apparatus) the threshold value (z) will vary. The threshold value (z) is used to set the prescribed value (r), therefore each image pickup apparatus will have a fixed threshold value (z) and thus a fixed prescribed value (r). Therefore, Saeki discloses a second exposure control mode in which an exposure value (Yr) for photographing is determined by performing exposure control (Setting Yr to a fixed value) by using a plurality of preset exposure values (a prescribed value r is set corresponding to the particular image pickup element being used).

Claim Rejections - 35 USC § 102

Claims 1-3, 7-12, and 16-18 rejected under 35 U.S.C. 102(e) as being anticipated by Saeki US 6,831,696.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Re claim 1, Saeki discloses in figure 3 an image pickup apparatus including an image pickup element such as a CCD (104) (col. 3, lines 20-27). The image pickup apparatus also includes an exposure controller (113) that performs exposure control by selectively using a first exposure control mode (mode corresponding to $(a2-a1)$ being larger than threshold value (z)) in which an exposure value is determined in accordance with the brightness of the object images repetitively sensed by the image sensing unit (exposure target value Yr is set by equation (1) (col. 4, lines 31-38) and a second exposure control mode (mode corresponding to $(a2-a1)$ being smaller than threshold value (z)) in which an exposure value is set to a prescribed value (r) , which is set on the basis of a threshold value (z) (col. 4, lines 20-30). The Examiner is reading this feature as determining an exposure value (Yr) by performing exposure control (setting Yr) by using a plurality of preset exposure values (prescribed value r). The threshold value (z) is a value determined on the basis of the configuration of an image pickup apparatus (e.g., the diameter of the lens or the number of pixels of an image pickup element) (col. 4, lines 27-30). Thus, it can be seen that depending on the configuration of the image pickup apparatus (which is preset and fixed for each image pickup apparatus) the threshold value (z) will vary. The threshold value (z) is used to set the prescribed value (r) , therefore each image pickup apparatus will have a fixed threshold value (z) and thus a fixed prescribed value (r) . Therefore, Saeki discloses a second exposure control mode in which an exposure value (Yr) for photographing is determined by performing exposure control (Setting Yr to a fixed value) by using a plurality of preset exposure

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values (a prescribed value r is set corresponding to the particular image pickup element being used).

Re claim 2, Saeki discloses that the exposure controller (113) determines whether to perform the exposure control by ~~using~~^{using} the exposure value determined in either the first exposure control mode or by using the exposure value determined in the second exposure control mode on the basis of an exposure correction value ($a2-a1$) (col. 4, lines 11-55).

Re claim 3, see claim 2. If the exposure controller (113) determines in step 505 that the value of ($a2-a1$) is smaller than the threshold value z , the exposure controller (113) sets the exposure target value Y_r to a prescribed value (r) (preset exposure value) (col. 4, lines 11-55).

Re claim 7, Saeki states that after setting the appropriate target value Y_r the exposure controller (113) controls the iris (103), the shutter, and the AGC (16) on the basis of the exposure state so that exposure equals the appropriate target value (Y_r) (steps 508-511) (col. 4, lines 49-55).

Re claim 8, the CCD (104) is an image sensing apparatus.

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Re claim 9, Saeki discloses in figure 3 an image pickup apparatus (digital camera) including a CCD (104) for sensing a still or a moving image (col. 3, lines 20-36).

Re claim 10, see claim 1.

Re claim 11, see claim 2.

Re claim 12, see claim 3.

Re claim 16, see claim 7.

Re claims 17 and 18, Saeki states that the invention may include a case in which program codes or software for achieving the functions of the above embodiments are supplied to various devices to operate these devices in accordance with programs stored in a CPU (col. 6, lines 37-55).

Allowable Subject Matter

Claims 4-6 and 13-15 allowed.

The following is an examiner's statement of reasons for allowance:

Re claims 4 and 13, the prior art fails to teach or suggest "An apparatus comprising: an image sensing unit that senses an object image; and an exposure controller ...wherein if the exposure correction value obtained in the first exposure control mode is smaller than the predetermined value, said exposure controller performs the exposure control for photographing by using the exposure value determined in the first exposure control mode, and, if the exposure correction value obtained in the first exposure control mode is larger than the predetermined value, said exposure controller performs the exposure control for photographing by using the exposure value determined in the second exposure control mode".

Re claims 5-6 and 14-15, the prior art fails to teach or suggest "An apparatus comprising: an image sensing unit that senses an object image; and an exposure controller ...wherein on the basis of whether an absolute value of an exposure correction value obtained in the first exposure control mode is smaller than a predetermined value, said exposure controller determines whether to perform the exposure control for photographing by using the exposure value determined in the first exposure control mode or by using the exposure value determined in the first exposure control mode or by using the exposure value determined in the second exposure control mode".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571)**

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272-7312. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on **(571) 272-7320**. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ


NGOC-YEN VU
PRIMARY EXAMINER